IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 21356 of 1999

Between:

The Depot Manager, A.P.S.R.T.C. Janagoan Depot, Warangal District.

PETITIONER

AND

1 P.N.Swamy,E.90597 H.No.19/688, Driver,
Rangasaipet, Warangal.
2 Industrial Tribunal-cum-Labour Court, Rep.by its Presiding Officer, Warangal

RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, direction or order particularly a writ in the nature of a writ of certiorari calling for the records pertaining to the award in I.D.No.193/94 of the Industrial Tribunal-Cum-Labour Court, Warnagal, dt.25-7-98 and published on 8-1-99 and quash the same as being illegal, arbitrary and unjust.

Counsel for the Petitioner : SMT.P.RAJANI REDDY, Advocate

Counsel for the respondent No.1 : MR. G. RAVI MOHAN , Advocate

Counsel for the Respondent No.2 : GP FOR LABOUR

The Court made the following :

ORDER:

This writ petition is filed by the Depot Manager, APSRTC., Jangoan Depot, Warrangal District (Management) being aggrieved by the award passed by the Industrial Tribunal-cum-Labour Court, Warangal in I.D. No.193 of 1994 on 25-07-1998 wherein the reference made to it under section 10(1) (c) of the I.D. Act, was answered in favour of the 1st respondent-workman holding that,

> " In the result award is passed setting aside the impugned order of punishment passed by the respondent dated 15-12-1983 and the respondent is directed to restore the deferred increments to the original pay structure of the petitioner and pay arrears arising out of it, including other attendant benefits, up-holding the punishment of treating the period of suspension as 'Leave due'.

It is the case of the petitioner-Management that on the report submitted by the Station Manager, Kothagudem Depot that the 1st respondent while driving the bus from Jangoan to Bhadrachalam on 09-05-1983 caused fatal accident near Nagaram, a charge sheet was issued. After having not satisfied with the explanation submitted by the workman, a detailed enquiry was ordered into the matter. The Enquiry Officer submitted his report and on the basis of the Enquiry Report, the Disciplinary Authority issued a show cause notice and having not satisfied with the said explanation, the punishment of reduction pay of the two incremental stages with cumulative effect and treating the period of suspension as leave due was imposed. Aggrieved by the same, the petitioner moved the Government for conciliation and the Government in turn referred the matter to the Industrial Tribunal-Cum-Labour Court, Warrangal under Section 10(1) (c) of the Industrial Disputes Act for resolving the following issue:

> "Whether the Depot Manager, apsrtc., Jangaon is justified in imposing the punishment of reducing the pay of Sri. P.N.Swamy, Driver E.90597, by two incremental stages for a period of two years with cumulative effect besides treating the period of suspension as 'Leave due' vide proc. No.01/2 (4)/83-84, dt.15.12.1983.?"

Before the Industrial Tribunal-cum-Labour Court, no oral or documentary evidence was adduced on either side. The Labour Court, after going through the material made available on record, came to a conclusion that the petitioner violated the mandatory provisions of Regulation 12 (13) in inflicting the punishment and in view of the fact that the worker/driver was acquitted under sections 337 and 338 of I.P.C. in the criminal case in C.C.No.258 of 1987 vide judgment dated 25-08-1989 on the file of the Judicial 1st Class Magistrate, Kothagudem, it must be held that the impugned order dated 13-12-83 inflicting the major punishment cannot stand. Except this, there is no other reason assigned by the Labour Court to arrive at the conclusion that the order passed by the Disciplinary Authority was illegal or

arbitrary. Hence this writ petition.

I have given earnest consideration to the contentions raised by the learned counsel on either side and also gone through the award passed by the Labour Court and other material made available on record.

As noticed above, the Labour Court, except saying that there is a violation of mandatory provision of Regulation 12 (13) of the A.P.S.R.T.C. employees C.C.A. Regulations and except relying on the factum of acquittal of the workman in the criminal proceedings viz., C.C.No:258 of 1987 on the file of the Judicial Magistrate of 1st Class, Kothagudem for the offence under sections 337 and 338 of I.P.C., no other reasons were assigned. The Labour Court, in fact, made a wrong approach in treating the period of suspension as "leave due" on the ground that as if there was no enquiry conducted by the Disciplinary Authority before passing the impugned proceedings. The learned counsel for the respondent has, in fact, placed an order dated 15-12-1983 inflicting the punishment of stoppage of two increments with cumulative effect. The order itself shows that first, a suspension order was issued and thereafter, charge sheet was framed. A detailed enquiry was conducted and the Enquiry Officer submitted his report on the basis of the Enquiry Officer's report, and a show cause notice was issued and after submission of the explanation by the workman to the show cause notice, the order of the Disciplinary Authority dated 15-12-1983 was passed inflicting the punishment of stoppage of two increments with cumulative effect.

In view of the above, the finding of the Labour Court is erroneous, and it misdirected itself.

The Labour Court further erred in holding that since the driver was acquitted with charges in the criminal case, the inflicting punishment in the impugned proceedings as bad cannot be countenanced. The result of the criminal case has no bearing on the departmental proceedings.

For all the above reasons, the award passed by the Labour Court is set aside. However, instead of remanding the matter to the Labour Court, in view of the fact that though a charge was framed on the ground that fatal accident was occurred, but the fact shows that it was only a case of injuries suffered by passengers, I feel that the punishment imposed by the Disciplinary authority is liable to be modified to the

following extent :

In the result, the respondent-workman is inflicted with a punishment of stoppage of two increments with cumulative effect till the date of passing of the award i.e., 25-07-1990 and thereafter, the punishment shall stand revoked. In pursuance of the award passed by the Labour Court, if any amounts were paid to the respondent-workman, the Management is at liberty to recover the same forthwith.

The writ petition is allowed to the extent indicated above. No order as to costs.

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Justice C.V.RAMULU

19-07-2005

Dvs

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Copies to:

1. The Depot Manager, A.P.S.R.T.C. Janagoan Depot, Warangal District.

2. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Warangal .

3.Two CCs. to the GP for Labour, High Court Buildings, Hyderabad.

4.Two CD copies.

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HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.21356 OF 1999

19th July, 2005